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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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Yasuaki Ikemura

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EXAMINER

FISCHETTI, JOSEPH A

ART UNIT

PAPER NUMBER

3627

DATE MAILED: 10/16/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

09/772,922

Applicant(s)

IKEMURA ET AL.

Examiner

Joseph A. Fischetti

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 08 August 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-11 and 19-24 is/are pending in the application.
- 4a) Of the above claim(s) 5,6,7,8,9 23,24 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-4, 19, 20, 21, 22 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |                                                                                         |                                                                   |
|-----------------------------------------------------------------------------------------|-------------------------------------------------------------------|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)                        | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)    | Paper No(s)/Mail Date. _____                                      |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____                                                             | 6) <input type="checkbox"/> Other: _____                          |

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*Claims 5,6,7,8,9 23 are species which have been withdrawn in a previous action. Withdrawal of claim 24 without traverse is made final.*

**Claim Rejections - 35 USC § 103**

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1,2,3,4,10,11,19,20,21,22 are rejected under 35 U.S.C. 103(a) as being unpatentable over WO/29578 in view of Manchala.

WO 96/29578 discloses a receiving unit receiving order signal including remainder quantity information that shows a remainder quantity of merchandise (interface 104 receives a signals resulting from comparing projected usage level to actual and a resultant signal which prompts a delivery);

a prediction period calculation unit (system 10 predicts storage tank product levels based on forecasted and actual usage rates, page. 17 lines 18-34); calculating a period until a

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remainder quantity of the merchandise is exhausted based on purchase history of a purchaser and the remainder quantity information ("system 10 compares the projected usage level to the actual usage level every predetermined time period" and "the system 10 predicts storage tank product levels based on forecasted and actual usage rates", the system 10 compares the projected usage level to the actual usage level...; [I]f a significant disparity arises, the inventory management system 10 determines whether a low product level will occur..." see, WO 29578 page 17 lines 18-34. Since the system 10 compares projected to actual usage levels of product this difference must by definition include the variable of the time left because the formula for determining same is a function of time for example usage is defined by  $\text{gallons/day(actual)} - \text{gallons/day(theory)}$ . The result is still the function of time period i.e. one day. The exhaust limit is read as the low product level threshold. The system in WO'578 is fully capable of purchasing based on purchase history because it is so closely tied to the supplier and so long as deliveries are made, the purchase history continues to be understood as reliable.

However, WO 96/29578 does not disclose an order information preparation unit a shop where the merchandise can be purchased

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most cheaply, selling price the merchandise, and preparing order information based on the selection with the order unit ordering the merchandise from the selected shop based on the order information. But, Manchala et al. disclose an order information preparation unit which does select or is capable of selecting a supplier based on the cheapest price and calculated period (leeway) (see col. 6 , lines 23-30 vendors A/B selected based upon price). It would be obvious to modify the apparatus 10 in WO '578 to include the best priced vendor feature of Manchala et al. the motivation this would allow for cost savings for the buyer and reliability.

Also, Manchala teaches a system having a unit which does or is capable of functioning as a shop information acquisition unit acquiring from each of a plurality of shops (vendors) selling prices of the merchandise (products) for a specified period and recording the selling prices of the merchandise for the specified period by associating the selling prices with shop names and selling dates which apparently is not disclosed WO'578. This is because network application in Manchala is fully capable of functioning acquiring pricing because it is programmed to solicit quotes from various vendors and to do this in a specified period is a function that any computer can execute. More specifically, col. 5 lines 55 et seq. identity of

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each vendor is given a vendor id., col. 6 lines 26 et seq. and in col. 6 lines 26 et seq. other vendors are sought for quotes which inherently would have an id associated with them. The calculated period is read as the period in which the solicitation for quotes was made and/or any period which is capable of being entered into the system.

Notwithstanding, even if the functional language of the claims is not met exactly by the above combination, the combination is nevertheless still fully capable of functioning in the manner set forth by applicant in the claims, given that applicant has failed to assert 112 sixth paragraph meaning in the claim language hence all language following the terms "unit" is deemed to be functional.

Re claim 2: Manchala et al. disclose timing an order e.g. setting a purchase day in col. 6 and when and where the merchandise can be purchased most cheaply, taking into consideration, the calculated period, the order unit places an order with the selected shop so that the merchandise can be purchased on the selected purchase day (one of vendors A/B is selected based upon leeway e.g. calculated period and purchase day is read as the day where the inventory is depleted beyond an allowable level. The cost of delivery as part of a purchase price is old and notorious and official notice is hereby taken

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thereof. The motivation is again repeated as allowing for cost savings for the buyer.

Re claim 3: Manchala et al. disclose the variation between the price offered by vendors A or B is read as a fluctuation. The motivation for the teaching of Manchala et al. would be to allow for cost savings for the buyer.

Re claim 4: Manchala et al. disclose evaluating current demand which is deemed to be an obvious variant of season change (holiday season vs. regular time) and purchase history. The motivation for the teaching of Manchala et al. would be to allow for cost savings for the buyer.

Re claim 10: col. 6 line 18 in Manchala et al. disclose inventory level which is read as a predetermined quantity. The motivation for the teaching of Manchala et al. would be to allow for cost savings for the buyer.

Re claim 11: WO/96/29578 disclose fluid inventory. The motivation for the teaching of Manchala et al. would be to allow for cost savings for the buyer.

Claim 19:

WO'578 discloses a method which receives an order signal including remainder quantity information that shows a remainder quantity of merchandise (see abstract); WO'578 discloses automatically calculating a period left until a remainder quantity of the merchandise is will be exhausted, based on purchase history of a purchaser and the remainder quantity information; WO'578 discloses interface 104 receives a signals resulting from comparing projected usage level to actual and a resultant signal which prompts a delivery); a prediction period calculation unit (system 10 predicts storage tank product levels based on forecasted and actual usage rates, page. 17 lines 18-34) ("system 10 compares the projected usage level to the actual usage level every predetermined time period" and "the system 10 predicts storage tank product levels based on forecasted and actual usage rates", the system 10 compares the projected usage level to the actual usage level...; [I]f a significant disparity arises, the inventory management system 10 determines whether a low product level will occur..." see, WO 29578 page 17 lines 18-34. Since the system 10 compares projected to actual usage levels of product this difference must by definition include the variable of the time left because the formula for determining same is a function of time for example usage is defined by gallons/day(actual)-gallons/day(theory). The result is still the function of time period i.e. one day. The exhaust limit is read as the low product level threshold. The system in WO'578 does purchase based on purchase history because it is so closely tied to the supplier and so long as deliveries are made, the purchase history continues to be understood as reliable and will continue.



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Manchala disclose for a specified period is read as the leeway period in which the need exists, and hence Manchala receiving price signals with selling prices of the merchandise at a plurality of shops for a specified period and recording the selling prices of the merchandise for the specified period by associating the selling prices with Shop names and selling dates. Manchala et al. disclose an order information preparation unit which does select or is capable of selecting a supplier based on the cheapest price and calculated period (leeway) (see col. 6 , lines 23-30 vendors A/B selected based upon price). It would be obvious to modify the apparatus 10 in WO '578 to include the best priced vendor feature of Manchala et al. the motivation this would allow for cost savings for the buyer and reliability.

Manchala disclose automatically selecting a shop where the merchandise can be purchased most cheaply, based on a purchase date within the calculated period and a the selling price of the merchandise. Manchala disclose Vendors A or B are selected by the system based on lowest price, and purchase date e.g., product must be available within the calculated period.

Manchala disclose automatically preparing order information based on the selection; and automatically placing an order with the selected shop based on the order information (Manchala col. 4, line 28 purchasing service places order)

It would be obvious to modify WO'578 with the best vendor price and availability feature of Manchala et al. the motivation being the most efficient delivery and pricing of product without worry of running out of supply.

RE claim 20: Manchala discloses selecting a purchase day and a shop based on leeway (col. 6 line 23) namely when and where the merchandise can be purchased most cheaply, taking into

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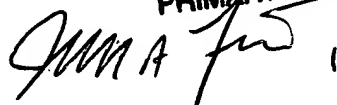
consideration the delivery charge ( inherent consideration in any lost price purchase), within the calculated period; and placing an order with the selected shop so that the merchandise can be purchased on the purchase day ( leeway determination gets the product purchased when needed).

Re claim 21: WO'578 discloses determining a period the amount of chemical to be used during a future predetermined time period and purchase order releases are scheduled and transmitted to the supplier based upon these estimates answering calculating a prediction order quantity based on the calculated period, the purchase history, and remainder quantity information and notifying the selected shop of the prediction order quantity when placing an order.

RE claim 22 official notice is taken of the season change in commodity purchasing, e.g. oil in the winter time.

Any inquiry concerning this communication should be directed to Joseph A. Fischetti at telephone number 571 272 6780.

JOSEPH A. FISCHETTI  
PRIMARY EXAMINER



Joseph A. Fischetti  
Primary Examiner  
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